

SEP-02-2008 10:13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
FLORIO'S ENTERPRISES, INC. d/b/a :
FLORIO'S RESTAURANT; & 192 GRAND :
ST. CIGAR AND TRADING CO. INC., :

Plaintiffs. :

**STIPULATION OF
DISCONTINUANCE**

08 Civ. 5903 (SAS)(DF)

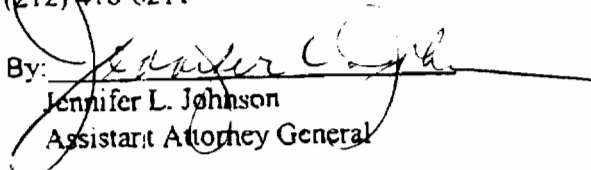
-----X
-against-THE CITY OF NEW YORK; THE NEW YORK :
CITY DEPARTMENT OF HEALTH AND :
MENTAL HYGIENE; THE NEW YORK CITY :
DEPARTMENT OF HEALTH AND MENTAL :
HYGIENE TRIBUNAL; THE STATE OF NEW :
YORK; & THE NEW YORK STATE :
DEPARTMENT OF HEALTH, :Defendants. :
-----X

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel for the plaintiffs and for the defendants State of New York and the New York State Department of Health ("the State defendants") that the above-captioned action is withdrawn and discontinued with prejudice as against the State defendants, and that the parties shall bear their own attorneys' fees, costs, and disbursements.

IT IS ALSO FURTHER STIPULATED AND AGREED that facsimile signatures on
this stipulation shall be deemed to be the originals.

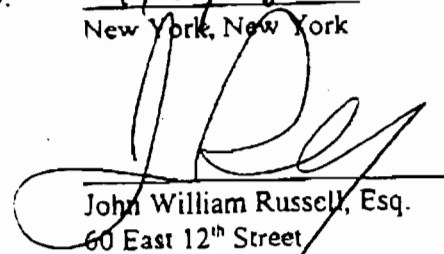
DATED: August 28, 2008
New York, New York

ANDREW M. CUOMO
ATTORNEY GENERAL OF THE
STATE OF NEW YORK
Attorney for State Defendants
120 Broadway
New York, New York 10271
(212) 416-6211

By: 
Jennifer L. Johnson
Assistant Attorney General

DATED:

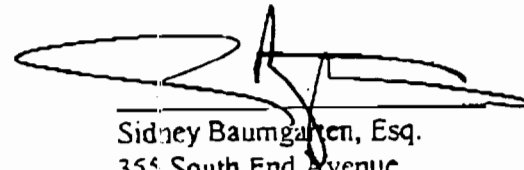
9/2/08
New York, New York


John William Russell, Esq.
60 East 12th Street
New York, New York 10003
(917) 224-2260

Plaintiffs' Counsel

DATED:

9/2/08
New York, New York


Sidney Baumgarten, Esq.
355 South End Avenue
Battery Park City
New York, New York 10280
(646) 338-8371

Plaintiffs' Counsel

SO ORDERED:

SHIRA A. SCHEINDLIN
U.S.D.J.

AFFIRMATION OF SERVICE

JENNIFER L. JOHNSON, an attorney duly admitted to practice law in the State of New York, affirms under penalty of perjury as follows:

That on the 3d day of September, 2008, I caused to be served the annexed fully-executed **Stipulation of Discontinuance**, as filed with the Court on same date, upon the following named persons:

John William Russell, Esq.
60 East 12th Street
New York, New York 10003

Sidney Baumgarten, Esq.
355 South End Avenue
Battery Park City
New York, New York 10280

counsel for plaintiffs, as well as:

Louise Lippin
The City of New York Law Department
100 Church Street
New York, New York 10007

counsel for the City defendants, by depositing a true and correct copy thereof, properly enclosed in a pre-paid wrapper, in a post-office box regularly maintained by the government of the United States at 120 Broadway, New York, New York 10271-0332, directed to said persons at the addresses within the State designated by them for that purpose.



JENNIFER L. JOHNSON

Executed on September 3, 2008